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Request:

During the Company's reconciliation proceeding last year, D.T.E. 00-109, the Company's witness testified regarding a dispute between the Company and Massachusetts Electric Company's standard offer supplier. The dispute involved responsibility for the payment of certain uplift charges. The Company and the supplier were in the process of settling the dispute. See D.T.E. 00-109 Transcript, Vol. 1, pp. 22-27.

Please provide a status report regarding the dispute. Include all facts and arguments relied upon by the Company and the supplier supporting their positions. Include a discussion of ISO-NE's rules or position regarding the responsibility for this type of uplift charges (who is responsible and how have the rules changed during the period of the dispute).

If the matter has been settled, please provide a description of and documentation supporting the final disposition. Include the amount of the disputed charges through the date of the settlement, the amount of these charges that the Company has recovered from its customers (identify separately any associated carrying costs) and the amount of these charges that the supplier has or will pay. Also, provide the amount included in the current transmission charge and an estimate of the 2002 charges. Include all workpapers, calculations and assumptions supporting the estimate.

If the matter has yet to be settled, please provide an estimate of when the Company believes the matter will be resolved. Provide the total amount of the disputed charges that have been included in calculating the Company's retail transmission rates. Include an estimate of these charges for 2002 and all workpapers, calculations and assumptions supporting the estimate.

Please explain how other electric distribution companies and their customers are paying for these types of charges (are they included in the Company's transmission rates, standard offer rates or some other rate component-please identify that component, if known).

Did the dispute involve Narragansett Electric Company? If yes, what is the status of that dispute-include any and all Rhode Island Commission filings and orders related to this issue? If resolved, please provide the details of the resolution-include any and all rulings by the Rhode Island Commission regarding this matter. If Narragansett was not involved in the dispute, please explain what conditions were different in Rhode Island than those in Massachusetts.

Response:

This is a dispute between the National Grid USA Distribution Companies (Massachusetts Electric Company, Nantucket Electric Company, Granite State Electric Company and The Narragansett Electric Company) and USGen New England, Inc. ("USGenNE"), arising out of the Second Amended and Restated Wholesale Standard Offer Service Agreement between USGenNE and Massachusetts Electric Company and Nantucket Electric Company (together "Mass. Electric" or "the Company"), dated September 1, 1998, and substantially identical agreements between USGenNE and Granite State Electric Company and The Narragansett Electric Company of the same date (collectively, the WSOS Agreements). The WSOS Agreements obliged USGenNE to supply 90.78% of the load of National Grid's customers receiving Standard Offer Service. National Grid is awaiting the outcome of this dispute with USGenNE before determining a course of action to resolve a similar dispute with TransCanada Power Marketing, Ltd., which supplies approximately ten percent of the amount that USGenNE does.

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In summary, the dispute is over whether or not the WSOS Agreements require USGenNE to report National Grid's load in its NEPOOL/ISO settlement account and pay for energy uplift costs, NEPOOL/ISO expenses and other costs. (The WSOS Agreements apply to Mass. Electric's service territory before the addition of the territory of the former Eastern Edison Company.) National Grid contends that Section 6.3 of the WSOS Agreements requires USGenNE to report National Grid's Standard Offer Service Load in order to effectuate the requirements in the Agreements' definition of Wholesale Standard Offer Service, which make USGenNE responsible for such costs. In National Grid's view, USGenNE agreed to step into the shoes of NEP, which previously provided the Standard Offer Service load for the distribution companies and paid all associated supply-related settlement costs imposed by NEPOOL/ISO. National Grid also maintains that USGenNE's responsibility for the costs at issue is confirmed by statements in the parties' regulatory filings, their course of dealing, and other contemporaneous documentation. USGenNE disputes that Sections 6.3 and the Wholesale Standard Offer Service definition require it to pay for these costs, and contends that the Wholesale Standard Offer Service definition obliges it to pay for these costs only if, and to the extent that, NEPOOL/ISO imposes such costs on other wholesale suppliers. USGenNE maintains that the rules of NEPOOL/ISO allocate the cost at issue to Electrical Load and provide that the Electrical Load for retail loads belongs to distribution companies like National Grid. Although NEPOOL/ISO rules permit Electrical Load responsibilities to be transferred by agreement of the parties, USGenNE disagrees that the WSOS Agreements transferred these responsibilities to it. In USGenNE's view, it never intended to pay for these costs, and if it had been required to agree to bear these costs, it would have paid substantially less for the generation assets it purchased from NEP in 1998.

The allocation of responsibility for energy uplift costs, the largest cost item in dispute, has been the subject of various proceedings that are ongoing before the FERC. On February 15, 2002, FERC issued an order rejecting a compliance filing of NEPOOL/ISO. 98 FERC ¶ 61, 173. A copy of that order is attached. In that order, FERC determined that entities like National Grid that rely on bilateral contracts like the WSOS Agreements to meet their needs should not be responsible for energy uplift costs. NEPOOL made a compliance filing on March 15, 2002 purporting to implement FERC's February 15th order. National Grid has filed a motion to intervene and protest with FERC, explaining why NEPOOL's proposed compliance filing does not comply with FERC's directive regarding uplift allocation. A copy of that filing is attached to this response. Various parties, including USGenNE, have also filed requests for clarification and/or rehearing of FERC's order. It is impossible to predict when FERC will rule on these requests or whether there will be any judicial challenges to FERC's order.

The WSOS Agreements provide for a three-phase dispute resolution process: direct negotiations, mediation, and arbitration. Direct negotiations and mediation before Eric Green, a highly regarded mediator, have not produced a settlement. On March 27, 2002, National Grid filed a formal arbitration demand, and the parties are in the process of choosing a three member arbitration panel. The arbitration is likely to take at least a year to resolve, and it is impossible to predict the length of time required for a judicial review of any arbitration decision.

The Company does collect the disputed amounts from customers through the transmission charge. As of the time of the Company's November 30, 2001 filing in this docket, the total amount of disputed charges was \$23,019,576.28. Since then, the Company has paid an additional \$1,104,673.61 to ISO-NE and has received invoices for another \$353,526.71. The Company has estimated that the disputed costs will total \$6,178,497 in 2002, as set forth in Exhibit AMR-1 of Company's November 30, 2001 filing (total of ISO Schedule 2 charge of \$1,360,417, ISO Schedule 3 charge of 791,752, and Energy Uplift charge of \$4,026,328).

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The Company does not know how other non-affiliated distribution companies are being charged for these costs, except that the Company understands that other companies entered into supply contracts later in time, after the NEPOOL/ISO rules governing the treatment of the costs in dispute became known, and were able to draft provisions in their contracts to avoid dispute. Effective March 1, 1999, the Standard Offer Service load of Granite State Electric Company was taken over by Constellation Power Source ("Constellation"). As part of this arrangement, Constellation is responsible for all of these charges.

As noted above, The Narragansett Electric Company is a party to the dispute and the arbitration. The Rhode Island Public Utilities Commission ("Commission") deferred recovery by The Narragansett Electric Company of these costs through 2001 pending resolution of this dispute. Attached to this response are two orders issued by the Commission in Docket Nos. 3031 (2000) and 3402 (2002) addressing this issue. Discussion of these disputed charges in Docket No. 3031 can be found on pages 7, 8, and 13. The order in Docket No. 3402 contains discussion on this issue on pages 7, 24, and 38.

Response prepared by or under the supervision of: Legal Department